

**City of Milton-Freewater
City Council Minutes**

The Council of the City of Milton-Freewater met in regular session Monday, October 13, 2008 at 7:00 p.m. in the Albee Room of the Library.

The following members were present: Mayor Lewis Key, Councilors Orrin Lyon, Ed Chesnut, Keith Woods, Debbie Kelley, Brad Humbert and Steve Irving.

Staff members present were: City Manager Linda Hall, Electric Superintendent Mike Charlo, Police Chief Doug Boedigheimer, Meter Reader Craig Garfield, Police Sergeant Pat Garrett and City Recorder Leanne Steadman.

Citizens present were: Ann Jolly, Tina Kain, Ronald Brown, Dorothy Heard, Adam Sherman, Judy Hart, Larry Hart, Richard Jolly, Robin Jolly, Arla Ruthven, Jack Ruthven, Robert Klein and Christine Boedigheimer.

Press member Melanie Hall of the Valley Herald was present.

CONSENT CALENDAR ITEMS:

The consent calendar items consisted of minutes from the September 22, 2008 regular council meeting and accounts payable from September 17 – October 7, 2008.

Councilor Chesnut motioned to approve the consent calendar items. Councilor Humbert seconded the motion which passed unanimously.

PRESENTATION:

RECOGNITION - OCTOBER EMPLOYEE OF THE MONTH

Councilor Humbert presented the October Employee of the Month Award to Meter Reader Craig Garfield. Mr. Garfield has been with the city for sixteen (16) years and has done a great job as the meter reader. Councilor Humbert, on behalf of the Mayor and the other councilors, presented Mr. Garfield with a \$100 check to show their appreciation.

RECOGNITION - EXECUTIVE ADMINISTRATIVE CERTIFICATE

City Manager Linda Hall presented Police Chief Doug Boedigheimer with the Executive Administrative Certificate. The certificate requires hundreds (100's) of hours to obtain and is the highest level of achievement through the Oregon Department of Public Safety and Standards Training Association (DPSST). Ms. Hall commended Chief Boedigheimer for all his hard work in achieving this certificate and acknowledgment from DPSST.

BUSINESS ITEMS:

BID AWARD – FREEWATER SUBSTATION MAINTENANCE

Electric Superintendent Mike Charlo reported that both substations, Milton and Freewater, have maintenance schedules set for one-year, five-year and ten-year maintenance programs. Mr. Charlo explained that some of the items on the maintenance schedule would be performed by the electric department. He said Specialty Engineering from Vancouver Washington was chosen after a bid process was completed and that they have performed maintenance in the past and are familiar with the city's substation equipment. The maintenance would be for Freewater Substation located on Cobb Road.

Councilor Chesnut motioned to award the Freewater Substation Maintenance to Specialty Engineering, of Vancouver Washington, in the amount of \$49,226. Councilor Lyon seconded the motion which passed unanimously.

RESOLUTION NO. 2103 ESTABLISHING PROCEDURES FOR PROVIDING NET METERING SERVICES IN ACCORDANCE WITH ORS 757.300

Electric Superintendent Mike Charlo explained that the request to establish a net metering policy was to come into compliance with an Oregon Revised Statue (ORS) that was recently enacted. Mr. Charlo explained the proposed policy would need to be in place prior to a customer installing electrical generating equipment within the City's service area. Net metering was explained as if a customer installed generating equipment to serve all or part of their electrical load and if there were any excess electricity generated then it would be transferred onto the City's distribution lines and that customer would be credited for that amount of electricity at the City's avoided cost rate. He said there were many guidelines and requirements for attaching to the City's equipment. The customer's equipment would also have to comply with all applicable code and safety requirements. The City would have the right to disconnect the service if it was found to be harming or degrading to the City's electrical system.

Councilor Kelley asked what would constitute bad power.

Mr. Charlo said if the customer was not producing the proper amount of power to keep the harmonics in sync.

Councilor Chesnut asked if most of the policy language came out of the ORS and if the rest of the language had been legally worded.

Mr. Charlo said that most of it was from the ORS and the rest was modeled after other cities.

Councilor Chesnut motion to adopt Resolution No. 2103, Resolution Establishing Procedures for Providing Net Metering Services in Accordance with ORS 757.300. Councilor Woods seconded the motion which passed unanimously.

RESOLUTION NO. 2104 AMENDING THE ELECTRIC RATE SCHEDULE BY ESTABLISHING NET METERING FEES

Mr. Charlo reported that there must be fees established to provide net metering. If a customer produces more electricity than they use then that customer would get credited back that amount at the City's avoided cost. Avoided cost was explained as the total cost of Milton-Freewater's purchased power from all power supply sources minus any credits received. That difference shall then be divided by the total number of KWH purchased in the preceding 12 months. Mr. Charlo said that a page was established in the Electric Rate Schedule and that under that rate schedule it would not be allowed to be sub-metered for resale to others.

Councilor Irving asked if the rate was the net lost being returned to the customer.

Mr. Charlo said yes.

Councilor Chesnut motion to adopt Resolution No. 2104, Resolution Amending the Electric Rate Schedule by Establishing Net Metering Fees. Councilor Woods seconded the motion which passed unanimously.

PUBLIC HEARING / FINDINGS OF FACTS AND ORDINANCE NO. 949 – AN ORDINANCE ANNEXING A PORTION OF SE 2ND AVENUE INTO CITY LIMITS (APPROX. 60FT BY 500FT OF THE STREET)

Mayor Key opened and summarized the rules for a public hearing held for the purpose of annexing approximately sixty (60) feet by five hundred (500) feet of S.E. 2nd Ave. (street portion only). He then explained that the testimony given in this hearing should be centered around the criteria for annexing a portion of S.E. 2nd. He also explained failure to raise an issue with sufficient directness to afford the decision maker and the parties an opportunity to respond to the issue will prohibit an appeal to LUBA on that issue.

No member of the Council declared ex parte contact and no audience member challenged any Councilor's right to participate in the hearing.

City Recorder Leanne Steadman reported notice of the hearing had been published according to law and no written comments had been received in her office.

The Mayor then asked City Manager Linda Hall to please present the staff report.

At which time Ms. Hall stated she would like to incorporate the staff report submitted to council by reference.

**CITY COUNCIL
STAFF REPORT**

APPLICANT: City of Milton-Freewater

ISSUE: Annexation of portion of S.E. 2nd Avenue right-of-way

SITE DESCRIPTION: The property is located east of Hwy. 11. The area proposed for annexation is 60 feet wide by 500 feet long.

BACKGROUND

A request for annexation of this City owned property was initiated by the City Council.

APPLICABLE STATE LAW PROVISIONS

ORS 222.120(1), (2), (3) and (4)(b)
ORS 222.125

COMPREHENSIVE PLAN PROVISIONS

Comprehensive Plan Goal 12
Comprehensive Plan Goal 14/ Annexation Policy

JOINT MANAGEMENT AGREEMENT PROVISIONS

IV. Referred Application/Situation

STATE LAW APPLICATIONS

“ORS 222.120 – PROCEDURE WITHOUT ELECTION BY CITY ELECTORS; HEARING; ORDINANCE SUBJECT TO REFERENDUM.

(1) Except when expressly required to do so by the city charter the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.

(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.

(3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of the hearing, in a newspaper of general circulation in the city and shall cause notice of the hearing to be posted in four public places in the city for a like period.

(4) After the hearing, a city legislative body may, by an ordinance containing a legal description of the territory in question:

(b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170 prior to the public hearing held under subsection (2) of this section;

FINDINGS: The city charter does not require the submission of annexation proposals to the voters of the city. A date was scheduled for public hearing on the annexation proposal, and notice of the hearing was published once each week for two successive weeks in the Valley Herald, and posted in four public places in the city for the same period of time, in conformance with this section.

ORS 222.125 – ANNEXATION BY CONSENT OF ALL OWNERS OF LAND AND MAJORITY OF ELECTORS; PROCLAMATION OF ANNEXATION.

The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

FINDINGS: As the area proposed for annexation is a public street, no electors are residing in the subject area. There is no designated owner of the

public right-of-way proposed for annexation. The County, through its Road Department, has indicated that they have no objection to the City annexing the right-of-way and assuming ownership and maintenance of the area.

GOAL 12 –TRANSPORTATION

“The overwhelming majority of transportation of people and materials takes place on the City’s streets and highways. The main need in this important transportation mode is for maintenance of the existing improved streets and upgrading of the few remaining streets which are not paved.

FINDINGS: The recent paving of the section of S.E. 2nd helps further this statement. As the street borders properties already within the City limits it only makes sense to annex the portion of the street as well.

GOAL 14 – URBANIZATION

“ANNEXATION POLICY”

“Land within the City of Milton-Freewater urban growth boundary (UGB) will be eligible over time for annexation into the corporate limits of Milton-Freewater. Land outside the UGB will not be eligible for annex into the City limits...

“Property requested for annexation to the city must be contiguous with (adjacent to) the existing corporate limits. Streets, sewer mains and water mains must be extended, at the developer’s cost, to service residences and businesses within the annexing property at the time of annexation (unless proper agreements and bonds are approved by the City for later improvements).

“The City will annex property only if the capacities of the City sewer and water systems are adequate to handle and added demand. The City will not annex any property whose owner does not wish to be annexed unless annexation is necessary as part of the development of the general location or neighborhood.

“The City will not refuse to annex property contiguous with the City limits if the City sewer and water system are capable of handling the additional demand and if the annexing property agrees to construct required public improvements to City standards.

FINDINGS: The subject property is located within the urban growth boundary, contiguous to the City limits. As previously mentioned, the subject property has been recently paved by the City. As the property proposed to be annexed is a public street as opposed to a developing property, extension of public utilities is not an issue, and in fact, water and sewer mains are already located in the right-of-way area.

JOINT MANAGEMENT AGREEMENT APPLICATIONS

IV. REFERRED APPLICATION/SITUATION

“U. The city shall refer all annexation proposals submitted to the UGA to the County for review and comment at least ten (10) days prior to the first public hearing on the annexation. The city will allow additional County review and comment [if] changes [are] to be made in the annexation proposal following initial or subsequent hearings.

FINDINGS: Notice was provided to the County on September 25, 2008, which is more than ten days prior to the date scheduled for hearing on the annexation request. The County Planning Department and County Road Department have no objection to the proposed annexation.

GENERAL COMMENT

The request for annexation appears to have satisfied state law as well as the City's Comprehensive Plan goals. The annexation would allow the City to move forward with legalization of the street to establish its existence as a City street. Based upon the recent paving of the street, this would be a logical step for the City.

STAFF RECOMMENDATION

Staff recommends annexing the subject property to the City.

City Manager Linda Hall reported that S.E. 2nd Avenue historically had been a “no man's land” Street. She said the city had received a letter from the Umatilla County Road Department advising the city that Umatilla County did not claim jurisdiction nor did they have any interest in claiming jurisdiction of S.E. 2nd Avenue. She also said that letters went out to the property owners on S.E. 2nd Avenue asking if any owners were interested in annexing into the city limits. There were no interested property owners therefore the proposed annexation only included sixty (60) feet by five hundred (500) feet of the street. She said once the annexation was adopted then the next step would be to proceed with formal legalization of the right-of-way.

Mayor Key then opened the floor to citizen comments. There were no citizen comments.

Mayor Key then opened the floor for council comments.

Councilor Woods said he was pleased with the action of the proposed annexation.

Councilor Irving said he felt it was time that the City owned the street it maintained.

There being no other comments, the Mayor declared the hearing to be closed.

Councilor Chesnut motioned to adopt the Findings of Fact and Conclusion of Law supporting the decision to annex approximately sixty (60) feet by five hundred (500) feet of S.E. 2nd Avenue (street portion only). Councilor Humbert seconded the motion and a roll call vote was taken: Councilor Lyon, yea, Councilor Chesnut, yea, Councilor Woods, yea, Councilor Kelley, yea, Councilor Irving, yea and Councilor Humbert, yea. Motion passed unanimously.

Councilor Chesnut motioned that Ordinance No. 949 be introduced and full reading waived. Councilor Humbert seconded the motion which passed unanimously. The City Manager then read the ordinance by title. The council then introduced the first reading of Ordinance #949, Ordinance Annexing a Portion of S.E. 2nd Avenue Located East of Hwy 11.

Council consensus was to proceed with the second reading of the ordinance since there was no opposition to the annexation.

Councilor Chesnut motioned that the second reading of Ordinance #949 be by title only and full reading waived. Councilor Humbert seconded the motion which passed unanimously. The City Manager then read the ordinance by title.

Councilor Humbert motion to adopt Ordinance #949, Ordinance Annexing a Portion of S.E. 2nd Avenue Located East of Hwy 11. Councilor Kelley seconded the motion and a roll call vote was taken: Councilor Lyon, yea, Councilor Chesnut, yea, Councilor Woods, yea, Councilor Kelley, yea, Councilor Irving, yea and Councilor Humbert, yea. Motion passed unanimously.

OPPORTUNITY FOR CITIZENS TO APPROACH THE COUNCIL WITH ISSUES NOT ON THIS AGENDA

Ronald Brown – 84156 Winesap Rd. said he was the Chief Executive Officer (CEO) of Earl E. Brown & Sons, Watermill Winery and Blue Mountain Cider. He felt it was important to let council know that they were opposed to the placement of wind turbines at the foot hills of the Blue Mountains. He felt the Blue Mountains were the most scenic view to the East of Milton-Freewater. He explained that his Blue Mountain Cider building on Broadway Ave. had a third floor and thought sometime in the future it could be turned into a restaurant. He said the view from that third floor was of the Blue Mountains. Mr. Brown also felt the wind turbines would have an adverse effect on the rivers and water shed. He said he had contacted the tribes. He said he was not opposed to wind generation but felt they could be placed in a better location. Mr. Brown felt there would also be an impact on the wildlife and birds due to the wind turbines. He then read a portion out of the Umatilla County Comprehensive Plan.

Councilor Kelley asked Mr. Brown what he wanted from the city council.

Mr. Brown said, nothing, he was there to let them know how he and the businesses he represented stood on the wind turbines being placed at the foothills. He said there were other locations they could be placed.

Councilor Chesnut asked Mr. Brown if he had contacted the Tribal Council.

Mr. Brown said no, but he intended to.

Councilor Humbert said he had done some research and found that by year 2025 the city would be required to purchase green power.

Tina Kain – 403 Willow, she asked council to take a stance on the wind turbines. She said there had been a Goal 5 Amendment submitted to Umatilla County and asked council to support that as well.

Ann Jolly – 1103 Walnut, she asked council to support the Goal 5 Amendment and felt it was important for the city to take a stance.

Richard Jolly – 54462 Upper Dry Creek Rd., said he received a letter from his attorney which had an opinion regarding Measure 49. He said he submitted a Goal 5 Amendment to Umatilla County Planning Department. On November 6, 2008 there was going to be another wind energy sub-committee meeting.

Robert Klein – 50424 Schubert Rd., said he was the President of the Friends of Umatilla County but was speaking on his own behalf. He said he felt the same as Mr. Brown. Mr. Klein felt that it would help if the council took a position on the wind turbines. He said he felt the whole manufacturing process of wind machines was not “green”. He felt it would speak volumes if the council would speak as one.

Arla Ruthven – 84547 Weis Rd., she referred to a letter to the editor article in the Walla Walla Union Bulletin saying that wind turbines use power when they are not generating power. Felt that the City should talk to the County and get involved.

MANAGER’S REPORT:

Ms. Hall reported that the Milton-Freewater School Board meeting was postponed due to the meeting conflict with the Pendleton “City Hall” day meeting. She said the next proposed date to meet with the Milton-Freewater School Board was November 18, 2008 and asked the councilors to please check their schedules. She asked council for a recommendation of community support due to the request from the PETS program. She also suggested putting the item on the agenda as an action item. She reported that the auditors were performing their yearly audit of the city and that they were doing a great job. Fall clean-up was October 15 – 19, 2008. Ms. Hall reported that the Economic Opportunities Analysis (EOA) was moving forward and that there was a meeting schedule for Tuesday October 14, 2008 at 1:00 p.m. in the Albee Room. She then asked council if they wanted her to draft a resolution regarding the windmills.

Councilor Chesnut said he was interested in a council work session regarding the wind mills.

A discussion ensued regarding a city council work session, who would attend and what would be discussed.

Manager Hall suggested a work session prior to the next city council of October 27, 2008.

Councilor Chesnut asked Ms. Hall to put the PETS community support request on the next agenda.

COUNCIL ANNOUNCEMENTS

Councilor Kelley said there was going to be a dinner and forum on Sunday, October 19, 2008 from 4:30 p.m. – 7:00 p.m. at St. Pat’s in Walla Walla which was free to anyone and Dr. Donna Beagle was the speaker. There was another meeting on Monday, October 20th with Laura Porter as the speaker. She said the meetings were tied to how children were doing along with economics, housing, education and drug and alcohol use. She said it was meant to be a snap shot on what was going on in the valley. She said there would also be CD’s available for people.

Councilor Humbert said that on Sunday, October 12, 2008 the Fortune Family held their annual Trysten Fortune Day and planted two (2) trees in Paula Potts yard. Paula Potts has terminal cancer. He said he was asked by Mark Fortune to remind everyone to hug their children on October 16th.

Councilor Irving reviewed the seminars that he attended at the League of Oregon Cities (LOC) Conference held in Salem, Oregon. He said that SOLVE, a volunteer group that anyone could join, would be hosting another meeting on October 21, 2008 in the Albee Room. He also thanked the citizens for letting him attend the LOC Conference.

Councilor Kelley said that the city had filed for a local option tax measure that would support the public transportation program and would be on the November 4, 2008 voter's ballot. She said it was a very important measure and that the transportation system has been a part of the City of Milton-Freewater since 1971. She said if the measure passes then the city could investigate the possibility of a "park-n-ride" program in addition to the current transportation program.

Mayor Key also thanked the citizens for letting him attend the LOC Conference in Salem, Oregon.

Councilor Humbert said he went on a tour while he was at the LOC Conference and there were three (3) cities close to Salem, Oregon that had already gone through the EOA process. He said those cities had good results with the process.

There being no further business, council adjourned at 8:23 p.m.

Lewis S. Key, Mayor